

**Department of Personnel Administration
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Workers' Compensation Coverage for Volunteers	REFERENCE NUMBER: 2007-029
DATE ISSUED: 10/09/07	SUPERSEDES:

This memorandum should be forwarded to:

**Personnel Officers
Personnel Transaction Supervisors
Return to Work Coordinators
Health and Safety Officers**

FROM: Department of Personnel Administration
Benefits Division

CONTACT: Keith Mentzer, Workers' Compensation Manager
(916) 445-9792
Fax: (916) 324-3213
Email: keithmentzer@dpa.ca.gov

According to Labor Code 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization.

This PML is a reminder that any State agency, department, commission or board (agency) that utilizes volunteers must decide whether or not to extend workers' compensation coverage to those volunteers. That determination must be documented and communicated to the State Compensation Insurance Fund.

If your agency utilizes volunteers in any capacity, please notify the State Compensation Insurance Fund of your determination. In order to ensure that our records are up to date with respect to volunteer coverage, please provide the notification by March 1, 2008. Thereafter, review your determination and update your notification to the State Compensation Insurance Fund annually, or whenever there is a significant change to your volunteer program.

Workers' compensation coverage is mandatory for all employees, but it is not mandatory for volunteers. Public employers have the option to extend workers' compensation coverage to volunteers that perform services for them.

Extending workers' compensation coverage to volunteers has advantages and disadvantages. Workers' compensation is an exclusive remedy, with some exceptions. This means that, in most circumstances, a person who is covered by workers' compensation cannot sue the employing agency in civil court if they are injured while engaged by that agency. In workers' compensation, recoveries are limited to specified disability, medical and retraining benefits. The employee cannot receive compensation for pain and suffering or other damages, and the awards are typically smaller. The tradeoff is that workers' compensation is a no-fault system. In civil court, the person must show that the employing

agency was negligent or otherwise at fault for the injury. Under workers' compensation, the injured person is entitled to benefits but does not need to show that the employer was at fault in the injury, so it is easier to recover benefits under workers' compensation.

Once the agency has determined that it will or will not extend workers' compensation benefits to the volunteers, that determination must be submitted to the State Compensation Insurance Fund with a copy to the Department of Personnel Administration at the addresses below. The letter must be signed by the agency director or equivalent.

If your agency has a governing board, in order to extend workers' compensation coverage to volunteers, it will be necessary for the governing board to adopt a resolution making that declaration. Documentation concerning the resolution should be included when notifying the State Compensation Insurance Fund.

The determination regarding volunteer coverage needs to be made and communicated promptly. Failure to make and communicate a determination prior to an injury occurring could cause your agency to lose the ability to decide if liability for damage and benefits will be determined under workers' compensation or civil liability statutes.

This PML is specific to the uninsured State agencies participating in the Master Agreement. If your agency has an insurance policy with the State Compensation Insurance Fund and you have volunteers that may be covered by that policy, you should contact your State Fund office to discuss the status of those volunteers.

I have attached a sample letter that can be used to notify State Fund of your determination regarding your volunteers.

The letter should be mailed to:

State Contract Services - Sacramento
Frank Floyd, Program Manager
P.O. Box 659011
Sacramento, CA 95865-9011

With a copy to:

Department of Personnel Administration
Benefits Division, Workers' Compensation Unit
1515 S Street, North Building, Suite 400
Sacramento CA 95811

If you have any questions regarding this memorandum, please contact Keith Mentzer at (916) 445-9792.

/s/Greg Beatty

Greg Beatty
Chief, Benefits Division